

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO, et al., Debtors ¹	PROMESA Title III NO. 17 BK 3283-LTS (Jointly Administered) This filing relates to PREPA
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**POWER CONSTRUCTORS, INC.’S MOTION FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS IN THE TOTAL SUM
OF \$224,828.12**

TO THE HONORABLE LAURA TAYLOR SWAIN,
UNITED STATES DISTRICT JUDGE:

COMES NOW, **Power Constructors, Inc.** (“**POWER**” or “**Contractor**”), represented by the undersigned counsel, and very respectfully avers and prays as follows:

PRELIMINARY STATEMENT AND FACTUAL BACKGROUND

1. On July 2nd, 2017, the Puerto Rico Electric Power Authority (“PREPA” or the “Debtor”) filed a debt adjustment case under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”) in the U.S. District Court for the District of Puerto Rico. (The “Title III Case”)

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567- LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Estimated Hearing Date: To be determined by the Court
Objection Deadline: To be determined by the Court

2. In order to comply with its duties as a debtor in possession and to maximize the value of its assets, PREPA proceeded to enter into a professional services contract with POWER to conduct an analytical study to help Puerto Rico obtain the most efficient, sustainable, and resilient power generation mix. Said contract is entitled Puerto Rico Electric Power Authority Professional Services Contract 2019-P00092, and was executed post-petition by the parties on April 12, 2019. (A copy of the contract is attached hereto as **Exhibit A**).

3. After rendering the services as contractually obligated, POWER proceeded to submit five (5) invoices totaling **\$224,828.12**, which have not been paid by PREPA. The unpaid invoices are the following:

- a. Invoice #308379 dated May 14, 2019 in the amount of \$405.71, attached hereto as **Exhibit B**;
- b. Invoice #308914 dated June 21, 2019 in the amount of \$64,383.52, attached hereto as **Exhibit C**;
- c. Invoice #308918 dated June 21, 2019 in the amount of \$5,229.63, attached hereto as **Exhibit D**;
- d. Invoice #308204 dated August 30, 2019 in the amount of \$5,871.12, attached hereto as **Exhibit E**; and
- e. Invoice #316280r1 dated October 4, 2019 in the amount of \$148,938.85, attached hereto as **Exhibit F**.

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4. POWER has made multiple attempts to collect the aforementioned invoices and have received belated and inconsequential responses from PREPA.

DISCUSSION

5. Bankruptcy Code section 503(b)(1)(A) provides that “[a]fter notice and a hearing, there shall be allowed administrative expenses . . . including . . . the actual, necessary costs and expenses of preserving the estate.” Generally, a request for payment of an administrative expense pursuant to Bankruptcy Code section 503(a) may qualify if (i) the right to payment arose from a post-petition transaction with the debtor estate (rather than from a prepetition transaction with the debtor) and (ii) the consideration supporting the right to payment was beneficial to the estate of the debtor. *See In re Hemingway Transp., Inc.*, 954 F.2d 1, 5 (1st Cir. 1991).

6. Nothing prohibits immediate payment of an allowed administrative expense, either, as the timing of payment is within a court’s discretion. *See In re HQ Global Holdings, Inc.*, 282 B.R. 169, 173 (Bankr. D. Del. 2002); *In re Rare Coin Galleries, Inc.*, 72 B.R. 415, 417 (Bankr. D. Mass. 1987) (“In general, the timing of the payment of ordinary administrative claims is in the discretion of the Court.”). Courts look to a variety of factors in determining whether to order immediate payment, including, but not limited to, prejudice to the debtor, hardship to the claimant, potential detriment to other creditors, and the length and expense of the case’s administration. *See id.*; *see also In re Garden Ridge Corp.*, 323 B.R. 136, 143 (Bankr. D. Del. 2005).

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7. It is abundantly clear that POWER and the unpaid invoices totaling **\$224,828.12** qualify for administrate expense priority. The Contract was not only entered post-petition, but most importantly PREPA, as a debtor in possession, stipulated in the contract that all the invoices shall be considered administrative expenses under Sections 503 and 507(a)(2) of the Bankruptcy Code. See Section III(k) at page 11 of the Contract attached hereto **Exhibit A**.

WHEREFORE, it is respectfully requested that this Court allow POWER's claim in the aggregate amount of **\$224,828.12** as an administrative expense claim and orders PREPA to immediately pay the same, which any other appropriate relief.

CERTIFICATE OF SERVICE

I hereby certify that, on August 4, 2023, I caused the preceding document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants in this case.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 4th day of August, 2023.

s/ Alexis Fuentes-Hernández, Esq.
Alexis Fuentes-Hernández, Esq.
USDC-PR 217201

FUENTES LAW OFFICES, LLC
P.O. Box 9022726
San Juan, PR 00902-2726
Tel. (787) 722-5215, 5216
Fax. (787) 483-6048
E-Mail: fuenteslaw@icloud.com